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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,891	03/30/2001	James Fritschen	1011US08	7563

7590 04/26/2005

Christopher C. Winslade  
2135 N. Clifton Ave. #1  
Chicago, IL 60614

EXAMINER

BUI, KIM T

ART UNIT PAPER NUMBER

3626

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/823,891

Applicant(s)

FRITSCHEN ET AL.

Examiner

Kim T. Bui

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

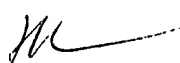
## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_



## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it should be limited to 150 words. Correction is required. See MPEP § 608.01(b).

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

Element 213 of Fig. 2, Elements 311,323,327,329,395,385,355, 390,313,375 of Fig. 3.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) As per claim 19, it is unclear what the abbreviation "HCFA" on line 2 of claim 19 represents.

***Claim Rejections - 35 USC § 103***

Art Unit: 3626

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6, 8-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLaHueriga (6779024 B2) in view of Sheehan et al. (6311163).

(A) As per claim 1, DeLaHueriga discloses a healthcare network supporting the prescription of medical necessity comprising:

- a. medical information regarding a patient and digital signature (i.e. certificate) of a prescription (i.e., medical necessity). DeLaHueriga, col. 44, lines 27-38, col. 46, lines 46-54, col. 41, lines 6-9, lines 28-34.
- b. at least one database. DeLaHueriga, col. 17, lines 45-47
- c. a first web sever communicatively coupled to the at least one database.  
DeLaHueriga, col. 17, lines 47-49.
- d. a physician computer, communicatively coupled to the web-server, running browser software used by a physician to review the patient information and certificate of medical necessity. DeLaHueriga, col. 10, lines 30-34, col. 44, lines 27-38.
- e. at least on one web page, selectively delivered by the web server to the physician computer, that presents the digital signature of a prescription (i.e. certificate of medical necessity) and the information regarding the patient for review by the physician. DeLaHueriga, col. 13, lines 24-33, col. 18, lines 21- 30, col. 44, lines 27-38, col. 46, lines 46-54.

Art Unit: 3626

f. the physician computer responding to input from a physician by initiating approval of the certificate of medical necessity and communicating the approved document to the web server, the web server storing the approved certificate for future access. DeLaHuerga, col. 34, lines 1-6, col. 44, lines 27-38, col. 46, lines 46-54.

DeLaHuerga fails to teach that the prescription includes medical equipment. It is however, well known for a physician to approve medical device necessary for the patient as evidenced by Sheechan et al., col. 3, line 58 to col. 4, line 27.

It would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate doctor's approval (i.e. register) of a medical equipment or device for use by the patient with the motivation of allowing the patient to perform diagnosis procedure at a remote location. Sheechan et al., col. 1, lines 54-59.

(B) As per claim 2, DeLaHuerga teaches a plurality of servers in col. 2, lines 5-11, col. 17, lines 45-47, col. 38, lines 34-35.

(C) As per claim 3,4, DeLaHuerga teaches prescription software (i.e. advisor software) associated with physician computer, server and database to assist the physician to create prescription (i.e. care plan) in col. 46, lines 50-51.

(D) As per claims 5-6, 18, 19, a plurality of servers communicating with each other, and billing information are disclosed by DeLaHuerga on col. 17, lines 45-55, col. 38, lines 34-35.

(E) As per claims 8, 9, 15, 16, database for storing medical information, approved and certified information unit (i.e. prescription), and access to the information by the servers

are disclosed by DeLaHuerga on col. 17, lines 66 to col. 18, line 2, col. 34, lines 5-6, col. 44, lines 27-38.

(F) As per claim 10, DeLaHuerga discloses a method for supporting a medical prescription in a healthcare network, comprising:

- a. receiving medical information regarding a patient and certificate of medical necessity. DeLaHuerga, col. 13, lines 24-33, col. 44, lines 27-38, col. 41, lines 28-34.
- b. presenting the information including certificate to a physician computer. DeLaHuerga, col. 13, lines 24-33, col. 18, lines 21-30, col. 44, lines 27-38.
- c. receiving the approved certificate of medical necessity from a physician computer. DeLaHuerga, col. 51, lines 43-45, col. 46, lines 46-49, col. 44, lines 27-38, col. 34, lines 1-6.
- d. storing the certificate of medical necessity in database for future access. DeLaHuerga, col. 34, lines 1-6, col. 44, lines 27-38, col. 46, lines 46-49.

DeLaHuerga fails to teach that the prescription includes medical equipment. It is however, well known for physician to approve medical device necessary for the patient as evidenced by Sheechan et al., col. 3, line 58 to col. 4, line 27.

It would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate doctor's approval (i.e. register) of a medical equipment or device for use by the patient with the motivation of allowing the patient to perform diagnosis procedure at a remote location. Sheechan et al., col. 1, lines 54-59.

(G) As per claim 11, DeLaHurga teaches the steps for receiving approved certificate of medical necessity from database and for communicating the approved certificate to a

Art Unit: 3626

medical prescription provider in col. 44, lines 25-29, col. 46, lines 46-49, col. 17, lines 65-67.

(H) As per claim 12, DeLaHuerga teaches the presentation of a previous approved prescription (i.e., medical advice) to a physician in col. 44, lines 25-29.

(I) As per claim 13, DeLaHuerga teaches the steps for retrieving the previous approved certificate of medical necessity from a database in col. 44, lines 25-29, and the step for selecting a billing server for sending information in col. 60, lines 51-52, col. 4, lines 41-44, lines 61-63.

(J) As per claim 14, DeLaHuerga teaches the medical information and certificate can be received from a previous medical physician (i.e, medical provider) in col. 44, lines 25-29.

(K) As per claim 17, DeLaHuerga teaches a healthcare network for supporting a medical prescription comprising:

a. at least one database that stores medical information regarding a patient and a certificate of medical necessity. DeLaHuerga, col. 13, lines 24-33, col. 17, lines 45-47, col. 44, lines 27-38, col. 41, lines 28-34.

b. a first server communicating to the database. DeLaHuerga, col. 17, lines 47-49.

c. a physician computer, communicating with the web server, running browser software to view medical information and certificate. DeLaHuerga, col. 10, lines 30-34, col. 44, lines 27-38.

d. at least a web page delivered from web server to physician computer to present medical information and certificate of medical necessity to be review by a physician.



Art Unit: 3626

DeLaHuerga, col. 13, lines 24-33, col. 18, lines 21- 30, col. 44, lines 27-38, col. 46, lines 46-54.

e. the physician computer responding to the physician input to initiate to approve the certificate of medical necessity and communicating the same to the server for storing and future access. DeLaHuerga, col. 34, lines 1-6, col. 44, lines 27-38, col. 46, lines 46-54.

DeLaHuerga fails to teach that the prescription includes medical equipment. It is however, well known for physician to approve medical device necessary for the patient as evidenced by Sheechan et al., col. 3, line 58 to col. 4, line 27.

It would have been obvious to one having ordinary skill in the art at the time of the invention to incorporate doctor's approval (i.e. register) of a medical equipment or device for use by the patient with the motivation of allowing the patient to perform diagnosis procedure at a remote location. Sheechan et al., col. 1, lines 54-59.

7. Claims 7, 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeLaHuerga in view of Sheehan et al as applied to claim 6 and 19 above, and further in view of Ross,Jr. et al. (5823948).

(A) As per claim 7, DeLaHuerga teaches the server target address and a wireless communication protocol for communicating information, but fails to recite the facsimile communication. This, however, is well known as evidenced by Ross, Jr. et al on col. 5, lines 18-20.

It would have been obvious to one having ordinary skill in the art to include facsimile communication with the motivation of transmitting printed document to remote locations. Ross, Jr. et al. col. 5, lines 18-20.

(B) As per claim 20, DeLaHuerga fail to teach HCFA. It is however well known to use HCFA criteria for proper medical billing as evidenced by Ross, Jr. et al, col. 1, lines 58-61.

It would have been obvious to one having ordinary skill in the art at the time of the invention to include HCFA with the motivation of adapting standard criteria for consistency in billing. Ross Jr. et al., col. 1, lines 58-61.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. "Networked system for interactive communication and remote monitoring of individuals" (5997476); " System for processing healthcare and related information" (6283761 B1); Security Biometrics Subsidiary EMedRX and Brother Form Alliance to Bring e-Prescriptions s to Reality", Business Wire, Dec. 2003, Journal Code, Newswire, Dialog File 992, Acc. No. 0748027510.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Bui whose telephone number is 571-272-6768. The examiner can normally be reached on Monday-Friday from 8:30A.M. to 5:00P.M..

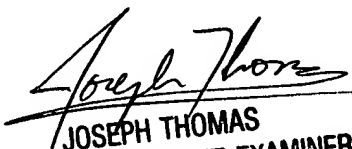
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
KTB

4/14/05.

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600